

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DENNIS L. SMITH, )  
                      )  
Plaintiff,         )  
                      )  
v.                  )      C.A. No. 98-639-JJF  
                      )  
EX-POLICE CHIEF GUY D. )  
BAYNARD,            )  
                      )  
Defendant.          )

DEFENDANT GUY D. BAYNARD'S MOTION FOR LEAVE  
TO FILE MEMORANDUM OF POINTS AND AUTHORITIES  
IN LIEU OF AN OPENING BRIEF

Defendant Guy D. Baynard requests permission to file a Memorandum of Points and Authorities in support of his Motion to Strike pursuant to Dist. Ct. L.R. 7.1.2. (b) in lieu of an opening brief. In support of his Motion, defendant states as follows:

1. Dist. Ct. L.R. 7.1.2. (b) provides that "the Court may order or the parties may agree to serve and file...statements of points and authorities in memorandum form in place of briefs."
2. Plaintiff is pro se. The arguments set forth in Defendant's Motion to Strike do not require complex factual or legal analysis.

**WHEREFORE**, defendant Guy D, Baynard respectfully requests permission to file a Memorandum of Points and Authorities in lieu of an opening brief.

AKIN & HERRON, P.A.

/s/ Bruce C. Herron  
Bruce C. Herron  
Atty. I.D. No. 2315  
1500 Shallcross Avenue  
Suite 1-A  
Wilmington, DE 19806  
(302) 427-6987  
Attorney for Defendant

SO ORDERED this \_\_\_\_ Day of \_\_\_\_\_, 2007.

Dated: May 8, 2007

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DENNIS SMITH, )  
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Plaintiff,      )  
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v.                )      C.A. No. 98-639-JJF  
                  )  
EX-POLICE CHIEF GUY D.     )  
BAYNARD,          )  
                  )  
Defendants.       )

NOTICE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of May, 2007, a copy of (1) DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF AND (2) DEFENDANT'S MOTION FOR LEAVE TO FILE A MEMORANDUM OF POINTS AND AUTHORITIES IN LIEU OF AN OPENING BRIEF were served via Lexis/Nexis File and mailed first class upon the following party:

Mr. Dennis Lee Smith  
P.O. Box 311  
Selbyville, DE 19975

AKIN & HERRON, P.A.

/s/ Bruce C. Herron  
Bruce C. Herron  
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(302) 427-6987  
Attorney for Defendant